

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.17437 of 2021

1. Kirubakaran
2. Rangasamy

...Petitioners

Versus

The Inspector of Police,
Mohanur Police Station,
Namakkal District.

....Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, seeking to set aside the order dated 12.08.2021 passed in CMP.No.642 of 2021 in Spl.C.C.No.7 of 2019 on the file of the learned Sessions (Fast Track Mahila) Judge,, Namakkal.

WEB COPY

For Petitioners : Mr.W.Camyles Gandhi

For Respondent : Mr.A.Damodaran

ORDER

(This case has been heard through video conference)

The petitioner, who is an accused in Spl.C.C.No.7 of 2019 on the file of the learned Sessions (Fast Track Mahila) Judge, Namakkal, had filed a petition under Section 311 of Cr.P.C. for recalling P.W.1 victim girl. The lower court by an order dated 12.08.2021 dismissed the same against which the present Criminal Original Petition has been filed.

2. The contention of the learned Counsel for the petitioner is that the petitioner and the victim girl got married earlier. The petitioner had complained about the marriage of the victim girl with one Vignesh to the Government Child Help Line for which immediately thereafter a police complaint has been registered as though the petitioner had underwent forcible sexual assault on her. Now to prove the fact that the marriage between the victim and the said Vignesh was subsisting and she has also given birth to a child, for that purpose, recalling of PW.1 is

necessary.

3. Learned Additional Public Prosecutor submitted that totally, there has been 25 witnesses. P.W.1 victim had been examined on 14.10.2020 and she had been cross-examined at length and about the marriage between her and one Vignesh, she had answered the same and during her cross-examination, she denied her marriage with Vignesh before she has completed the 18 years of age. The date of birth of P.W.1 is 12.06.2004 and she has completed 18 years as on 11.06.2021. She further submitted that the contention of the petitioner is not correct.

4. It is seen that during the cross-examination, the petitioner counsel, who appeared before the lower court has suggested the victim P.W.1 to marry to Vignesh which has been denied by the victim P.W.1. Further under Section 33(5) of the POCSO Act, there is a specific bar to summon the victim girl time and again. Therefore, the point now projected by the learned Counsel for the victim has already been projected to the victim girl and taking into consideration of the

contention of the learned Counsel for the petitioner and the learned Additional Public Prosecutor, the lower court has passed a detailed order dated 12.08.2021 in CrI.M.P.No.642/2021 in Spl.C.C.No.7/2019. Apart from what has been transpired before the lower court, nothing new has been contested before this Court. Therefore, this Court finds no ground to interfere with the order of the lower court.

5. In the result, the Criminal Original Petition is dismissed confirming the order of the lower court.

04.10.2021

Index: Yes/No
Internet: Yes/No
tsi

सत्यमेव जयते
WEB COPY

To

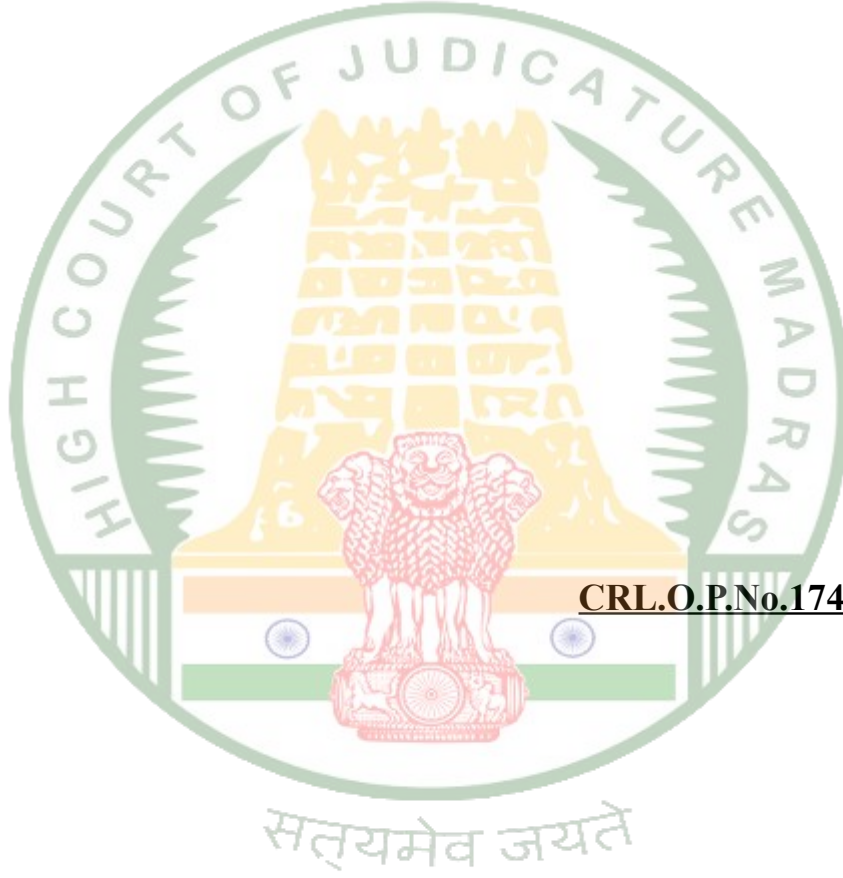
1. The Inspector of Police,
Mohanur Police Station,
Namakkal District.
2. The Public Prosecutor,
High Court, Madras.



WEB COPY

M.NIRMAL KUMAR, J.

tsi



CRL.O.P.No.17437/2021

WEB COPY 04.10.2021